

1 HB7
2 172655-2
3 By Representative Hill (M)
4 RFD: Insurance
5 First Read: 02-FEB-16
6 PFD: 01/12/2016

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ENROLLED, An Act,

To amend Section 8-32-2 of the Code of Alabama 1975, relating to service contracts; to define the term "road hazard" and to specify the damages caused by a road hazard that would be covered by a service contract.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 8-32-2 of the Code of Alabama 1975, is amended to read as follows:

"§8-32-2.

"As used in this chapter, the following terms shall have the following meanings:

"(1) ADMINISTRATOR. The person designated by a provider to be responsible for the administration of service contracts or the service contracts plan or to make the filings required by this chapter.

"(2) COMMISSIONER. The Commissioner of Insurance of this state.

"(3) CONSUMER. A natural person who buys, primarily for personal, family, or household purposes, and not for resale, any tangible personal property normally used for personal, family, or household purposes and not for commercial or research purposes.

"(4) MAINTENANCE AGREEMENT. A contract of limited duration that provides for scheduled maintenance only.

1 "(5) MANUFACTURER. A person that is one of the
2 following:

3 "a. A manufacturer or producer of property that
4 sells the property under its own name or label.

5 "b. A subsidiary of the person who manufactures or
6 produces the property.

7 "c. A corporation which owns at least 80 percent of
8 the person who manufactures or produces the property.

9 "d. A person who manufactures or produces the
10 property even though the property is sold under the trade name
11 or label of another person.

12 "(6) MECHANICAL BREAKDOWN INSURANCE. For purposes of
13 this chapter, a policy, contract, or agreement issued by an
14 authorized insurance company directly to a consumer or other
15 owner of property that provides for, among other coverages,
16 the repair, replacement, or maintenance of property or
17 indemnification for repair, replacement, or maintenance, for
18 the operational or structural failure of the property due to a
19 defect in materials or workmanship or due to normal wear and
20 tear.

21 "(7) NON-ORIGINAL MANUFACTURER'S PARTS. Replacement
22 parts not made for or by the original manufacturer of the
23 property, commonly referred to as "after market parts."

24 "(8) PERSON. An individual, partnership,
25 corporation, incorporated or unincorporated association, joint

1 stock company, reciprocal, syndicate, or any other entity, or
2 combination of persons acting in concert.

3 "(9) PREMIUM. The consideration paid to an insurer
4 for a reimbursement insurance policy.

5 "(10) PROVIDER. A person who administers, makes,
6 provides, sells, or offers to sell a service contract, who is
7 contractually obligated to provide service under a service
8 contract.

9 "(11) PROVIDER FEE. The total purchase price paid
10 for a service contract. In cases where a reimbursement
11 insurance policy is issued to a provider, the "provider fee"
12 is the total purchase price paid for a service contract net of
13 the premium.

14 "(12) REIMBURSEMENT INSURANCE POLICY. A policy of
15 insurance issued to a provider pursuant to which the insurer
16 agrees, for the benefit of the service contract holders, to
17 discharge the obligations of the provider under the terms of
18 the service contracts in the event of non-performance by the
19 provider.

20 "(13) ROAD HAZARD. A hazard that is encountered
21 while driving a motor vehicle, including, but not limited to,
22 potholes, rocks, wood debris, metal parts, glass, plastic,
23 curbs, or composite scraps.

24 "~~(13)~~(14) SERVICE CONTRACT. A contract or agreement
25 for a separately stated consideration for a specific duration

1 to perform the repair, replacement, or maintenance of property
2 or indemnification for repair, replacement, or maintenance,
3 for the operational or structural failure due to a defect in
4 materials or workmanship, or normal wear and tear, with or
5 without additional provision for incidental payment or
6 indemnity under limited circumstances, for related expenses,
7 including, but not limited to, towing, rental, and emergency
8 road service. Service contracts may provide for the repair,
9 replacement or maintenance of property for damage resulting
10 from power surges and accidental damage from handling.

11 "Service contract" does not include warranties, mechanical
12 breakdown insurance or maintenance agreements. A service
13 contract is not insurance for any purpose, including, but not
14 limited to, compliance with the Alabama Insurance Code, other
15 than for the purpose of a service contract holder's claim
16 against a service contract provider for failure to comply with
17 the provisions of the service contract if so provided by other
18 law. Service contract services include, but are not limited
19 to, the following:

20 "a. The repair or replacement of tires or wheels, or
21 both, on a motor vehicle damaged as a result of coming into
22 contact with a road hazard.

23 "b. The removal of dents, dings, or creases on a
24 motor vehicle that may be repaired using the process of
25 paintless dent removal without affecting the existing paint

1 finish and without replacing vehicle body panels, sanding,
2 bonding, or painting.

3 "c. The repair of chips or cracks in or the
4 replacement of a motor vehicle windshield as a result of
5 damage caused by a road hazard that is primary to the coverage
6 offered by the motor vehicle owner's motor vehicle insurance
7 policy.

8 "d. The replacement of a motor vehicle key or
9 key-fob if the key or key-fob becomes inoperable, lost, or
10 stolen.

11 "e. Other services which may be approved by the
12 commissioner, if not inconsistent with this chapter.

13 "~~(14)~~(15) SERVICE CONTRACT HOLDER or CONTRACT
14 HOLDER. A person who is the purchaser or holder of a service
15 contract.

16 "~~(15)~~(16) WARRANTY. A warranty made by the
17 manufacturer, importer, distributor, or seller of property or
18 services without consideration stated separately from the
19 price of the property or services sold, that is not negotiated
20 separate from the sale of the product and is incidental to the
21 sale of the product, that guarantees repair or replacement, or
22 indemnity for repair or replacement, for defective parts,
23 mechanical or electrical breakdown, labor or other remedial
24 measures, such as repair or replacement of the property or
25 repetition of services."

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 23-FEB-16.

Jeff Woodard
Clerk

Senate	<hr/> <u>15-MAR-16</u> <hr/>	Passed
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